
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

KENT TERRY PRISBREY,

Plaintiff,

v.

STATE AUTO INSURANCE COMPANIES;
MILBANK INSURANCE COMPANY; and
DOES A-Z,

Defendants.

**MEMORANDUM DECISION AND
ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 4:21-cv-00124-HCN-DBP

Howard C. Nielson, Jr.
United States District Judge

The Memorandum Decision and Order and Report and Recommendation (“Report and Recommendation”)¹ issued by Chief Magistrate Judge Dustin B. Pead on September 26, 2022, recommends that Plaintiff’s Motion for Default² be denied, and that Plaintiff’s Motion for Summary Judgment³ be denied. The Report and Recommendation also recommends that Plaintiff may refile a new motion for mediation once the inspection of his home has been completed and adequate answers have been provided to Defendants’ discovery requests.⁴

Plaintiff timely filed an objection to the Report and Recommendation on October 12, 2022.⁵ The court has carefully reviewed Plaintiff’s objection, the record that was before Chief Judge Pead, and the reasoning set forth in the Report and Recommendation. Based on its review,

¹ [Docket no. 44](#), filed Sept. 26, 2022.

² [Docket no. 24](#), filed May 20, 2022.

³ [Docket no. 38](#), filed Aug. 25, 2022.

⁴ Report and Recommendation at 5.

⁵ Notice and Objection to Judge [D]ustin B. Pead Memorandum Statements Titled “Memorandum Decision and Order and Report and Recommendations” (“Objection”), [docket no. 47](#), filed October 12, 2022.

the court concludes that Plaintiff's objections are not well taken. Plaintiff makes only vague and conclusory objections that the Report and Recommendation omits facts, includes false or misleading statements, and deprives Plaintiff of rights and privileges.⁶

The court further concludes that Judge Pead's findings, analysis, and conclusions regarding all non-dispositive matters objected to are neither clearly erroneous nor contrary to law.⁷ The court has reviewed *de novo* all dispositive matters objected to,⁸ and concludes that Judge Pead's findings, analysis, and conclusions are correct.⁹ Plaintiff has waived objection to any portion of the Report and Recommendation to which he has not specifically objected,¹⁰ and, based on its review, the court finds no plain error in any portion of the Report and Recommendation to which no specific objection has been raised.¹¹ The court therefore adopts Chief Judge Pead's Report and Recommendation adopted in its entirety.

ORDER

IT IS HEREBY ORDERED that the Report and Recommendation¹² is ADOPTED. Plaintiff's Motion for Default¹³ is DENIED and Plaintiff's Motion for Summary Judgment¹⁴ is DENIED. Plaintiff may refile a new motion for mediation once the inspection of his home has been completed and adequate answers have been provided to Defendants' discovery requests.

⁶ *Id.*

⁷ [FED R. CIV. P. 72\(a\)](#).

⁸ 28 U.S.C. § 636(b).

⁹ [FED R. CIV. P. 72\(b\)](#).

¹⁰ *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); [Gallegos v. Bravo](#), 437 Fed. App'x 624, 625 (10th Cir. 2011).

¹¹ *Morales-Fernandez v. I.N.S.*, 418 F.3d 1116, 1122 (10th Cir. 2005).

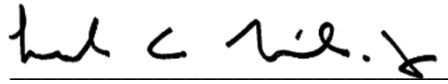
¹² [Docket no. 44](#), filed Sept. 26, 2022.

¹³ [Docket no. 24](#), filed May 20, 2022.

¹⁴ [Docket no. 38](#), filed Aug. 25, 2022.

Signed October 26, 2022.

BY THE COURT

A handwritten signature in black ink, appearing to read "H.C. Nielson, Jr.", written over a horizontal line.

Howard C. Nielson, Jr.
United States District Judge